

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:11CV27-RJC

TERRENCE LEROY WRIGHT,)
)
Plaintiff,)
)
v.)
)
WANDA BROOMS,)
)
Defendant.)
)

ORDER

THIS MATTER comes before the Court on Plaintiff's "Motion to Re-File to Proceed With Said Case" filed on October 24, 2011. (Doc. No. 1). Plaintiff's Motion includes a single handwritten page asking that his case be "re-instated" along with a copy of his prison trust account statement.

On July 13, 2011, Plaintiff filed a Complaint pursuant to 42 U.S.C. § 1983 against Defendant, Wanda Broom, Graham County Clerk of Court. (Doc. No. 1). On August 17, 2011 Plaintiff filed a Motion to Dismiss in which he asked that his case be dismissed without prejudice. (Doc. No. 3). On August 22, 2011, the Court granted Plaintiff's Motion noting that Rule 41 of the Federal Rules of Civil Procedure allows a plaintiff to voluntarily dismiss his action without a court order prior to the opposing party serving either an answer or a motion for summary judgment. Fed. R. Civ. P. 41(a)(1)(A). (Doc. No. 4).

Plaintiff now asks that his case be "re-opened." Plaintiff's Motion must be denied. Plaintiff's original complaint was dismissed without prejudice. Therefore, Plaintiff may file a new case based on the same cause of action, however, Plaintiff may not "re-open" the instant case. If Plaintiff is seeking to file a new case, he must file a new Complaint along with the \$350.00 filing

fee or a Motion to Proceed *In Forma Pauperis* and a copy of his prison trust account statement. The Clerk is directed to send Plaintiff a copy of the form prisoner civil rights complaint.

IT IS, THEREFORE, ORDERED that:

- (1) Plaintiff's "Motion to Re-File to Proceed with Said Case" is DENIED;
- (2) The Clerk is directed to send Plaintiff a copy of the form prisoner civil rights complaint;
- (3) Plaintiff may file a new case using the form provided by the Clerk;
- (4) The Clerk is directed to send a copy of this Order to the pro se Plaintiff.

Signed: October 26, 2011



Robert J. Conrad, Jr.
Chief United States District Judge
